

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

**Sep 06, 2023**

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

MANUEL ALEJANDRO SANCHEZ,

Defendant.

No. 4:19-CR-06052-MKD

ORDER DISMISSING  
INDICTMENT

**ECF No. 57**

Before the Court is Defendant Manuel Alejandro Sanchez's Motion to Dismiss Due to Speedy Trial Violation. ECF No. 57. The United States has filed a response, indicating no objection to the dismissal of the indictment. ECF No. 59.

On August 20, 2019, the United States filed an Indictment charging Defendant with illegal reentry following removal, in violation of 8 U.S.C. § 1326. ECF No. 1. Defendant filed two motions to dismiss the indictment. ECF Nos. 30, 32. On March 5, 2020, the previously assigned judicial officer denied the first motion to dismiss, granted the second motion to dismiss, and dismissed the indictment. ECF Nos. 40, 42.

1 The United States appealed the dismissal. ECF No. 44. On July 14, 2021,  
2 the Ninth Circuit issued a memorandum opinion that reversed the order of  
3 dismissal and remanded the case. ECF No. 50. On August 30, 2022, the Ninth  
4 Circuit issued the mandate. ECF No. 52. On December 20, 2022, Defendant filed  
5 a Petition for Writ of Certiorari with the United States Supreme Court. ECF No.  
6 54. On February 21, 2023, the Supreme Court denied Defendant's petition. ECF  
7 No. 55. On August 31, 2023, Defendant filed the instant Motion to Dismiss Case.  
8 ECF No. 57. On the same date, this matter was re-assigned to the undersigned  
9 judicial officer. ECF No. 56.

10 The Speedy Trial Act requires that the trial of a defendant occur within  
11 seventy days of the filing of an indictment charging him with the commission of an  
12 offense. 18 U.S.C. § 3161(c)(1). Where a defendant is to be tried upon an  
13 indictment dismissed by a trial court and reinstated following an appeal, the trial  
14 shall commence within seventy days from the date of the action occasioning the  
15 trial becomes final. 18 U.S.C. § 3161(d)(2). Once a defendant has indicated in a  
16 court document an intent to file a petition for writ of certiorari, the period of time  
17 from the announcement to the Supreme Court's denial or grant of the petition is  
18 excluded from speedy trial calculations. *United States v. Pete*, 525 F.3d 844, 854-  
19 55 (9th Cir. 2008); *see* 18 U.S.C. § 3161(h)(1)(C) (excluding from speedy trial  
20 calculations "delay resulting from any interlocutory appeal[.]").

1 If a defendant is not brought to trial within the time limits of 18 U.S.C. §  
2 3161(c), the indictment “shall be dismissed on motion of the defendant.” 18  
3 U.S.C. § 3162(a)(2); *see United States v. Lloyd*, 125 F.3d 1263, 1271 (9th Cir.  
4 1997). The trial court is to consider the following factors, among others, in  
5 deciding whether the dismissal should be with or without prejudice:

- 6 (1) the seriousness of the offense;
- 7 (2) the facts and circumstances of the case which led to  
the dismissal; and
- 8 (3) the impact of a reprosecution on the administration of  
this chapter and on the administration of justice.

9 18 U.S.C. § 3162(a)(2).

10 Given the lack of objection from the United States and the failure of the  
11 United States to prosecute the case, and the clear violation of the Defendant’s  
12 speedy trial right, dismissal with prejudice is appropriate.

13 Accordingly, **IT IS HEREBY ORDERED:**

14 1. The United States’ Motion to Dismiss Indictment, **ECF No. 57**, is  
15 **GRANTED.**

16 2. The Indictment, **ECF No. 1**, is **DISMISSED WITH PREJUDICE.**

17 3. All hearings, if any, are **STRICKEN**, and all pending motions, if any,  
18 are **DENIED AS MOOT.**

1       **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order and  
2 provide copies to counsel, the United States Probation Office, the United States  
3 Marshals Service and **CLOSE** the file.

4       **DATED** September 6, 2023.

5  
6                               s/Mary K. Dimke  
7                               MARY K. DIMKE  
8                               UNITED STATES DISTRICT JUDGE  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20